

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE LAND SURVEYOR SECTION OF THE EXAMINING BOARD OF ARCHITECTS, LANDSCAPE
ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS AND LAND SURVEYORS

IN THE MATTER OF THE	:	
DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	FINAL DECISION AND ORDER
	:	
CURTIS J. CUMMER,	:	Case LS0903053LSR
RESPONDENT.	:	

Division of Enforcement Case # 08 LSR 004

The parties to this action for the purposes of Wis. Stats. § 227.53 are:

Curtis J. Cummer
Chippewa Valley CTF
2909 East Park Avenue
#437044
Chippewa Falls, Wisconsin 54729

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Land Surveyor Section
Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of Land Surveyor Section (Section) of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors. The Section has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Section in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Curtis J. Cummer, (DOB 10/20/1969) is duly licensed as a registered land surveyor in the state of Wisconsin (license # 2377-8). This license was first granted on November 13, 1997.
2. Respondent's most recent address on file with the Department of Regulation and Licensing (Department) is Chippewa Valley CTF, 2909 East Park Avenue, #437044, Chippewa Falls, Wisconsin 54729.
3. On the morning of August 18, 2006, Respondent and his employee Chad Crook did a surveying job at property on Larson Road just outside of Readstown, Wisconsin.
4. Upon concluding work about noon, Crook and Respondent went to Last Resort Bar in Readstown for dinner.
5. Crook and Respondent only drank beers at the bar; they had nothing to eat.
6. About 2:00 p.m. Crook and Respondent went to Crook's brother's home to borrow money.
7. After obtaining money from Crook's brother, Crook and Respondent returned to Last Resort Bar and continued drinking beer.

8. Respondent left the bar about 6:10 p.m.
9. About 6:30 p.m. Respondent was northbound on County Road S when he went through the stop sign at State Highway 56 in Viroqua and stopped in the middle of the intersection.
10. Respondent then proceeded to drive his truck north on the southbound shoulder of County Road S and turned right, crossing both lanes of traffic onto the northbound shoulder of the road.
11. Once on the northbound shoulder Respondent turned left, again crossed both lanes of traffic and drove into and through the side of the Liberty Store Tavern.
12. By driving through the side of the building, Respondent caused extensive property damage and injured four people.
13. Respondent failed field sobriety tests and told the officer testing him that he had eight beers between 1 and 6 p.m.
14. Respondent was convicted of causing injury by negligent use of a weapon and of operating while under the influence (3rd) on December 4, 2006.
15. Respondent was sentenced on March 5, 2007, to one year, six months of confinement and two years of extended supervision.
16. Conditions of supervision require Respondent to have an AODA assessment, to abstain from alcohol and controlled substances unless prescribed, and to make a good faith effort to have full-time employment.
17. Respondent did not report his conviction to the Department until January 24, 2008.

CONCLUSIONS OF LAW

1. The Section has jurisdiction to act in this matter pursuant to Wis. Stat. § 443.12, and is authorized to enter into the attached Stipulation and Order, pursuant to Wis. Stats. § 227.44 (5).
2. Wis. Administrative Code § RL 4.09 (2) requires licensees to report convictions to the Department within 48 hours after the conviction.
3. By failing to report his conviction to the Department until 13 months after the conviction, Respondent violated Wis. Administrative Code § 4.09 (2)
4. Wis. Administrative Code § A-E 8.09 requires a land surveyor to comply with the requirements of Wis. Stats. chapter 443, rules adopted by the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors, and all other federal, state and local codes that related to the practice of land surveying.
5. By violating Wis. Administrative Code § RL 4.09 (2), Respondent violated Wis. Administrative Code § A-E 8.09 (1).
6. Wis. Administrative Code § A-E 8.09 (2) provides that a land surveyor may not engage in conduct that may adversely affect fitness to practice land surveying.
7. By driving with a prohibited concentration of alcohol, Respondent engaged in conduct that adversely affected his fitness to practice land surveying.
8. Wis. Administrative Code § A-E 8.03 (a) defines misconduct in the practice of land surveying to include violation of federal or state law, local ordinance, or administrative rules relating to the practice of land surveying.
9. By violating Wis. Administrative Code §§ RL 4.09 (2), A-E 8.09 (1), and A-E 8.09 (2), Respondent engaged in misconduct in the practice of land surveying.
10. Wis. Stat. § 443.12 (1) provides that the Section may reprimand or limit, suspend or revoke the certificate of registration of any land surveyor for misconduct in the practice of land surveying.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The registration of Curtis J. Cummer to practice land surveying in the state of Wisconsin is hereby REPRIMANDED.
2. The registration of Curtis J. Cummer to practice land surveying in the state of Wisconsin is hereby limited to require compliance with the conditions of extended supervision imposed by the court.
3. The registration of Curtis J. Cummer to practice land surveying in the state of Wisconsin is hereby limited to require Respondent to submit quarterly reports from his probation officer regarding his compliance with the conditions of extended supervision.
4. Curtis J. Cummer shall pay to the Department of Regulation and Licensing costs in the amount of **NINE HUNDRED** dollars (\$900.00) in this matter. Payment shall be submitted on the following payment schedule:

Date	Amount
June 30, 2009	\$150.00
September 30, 2009	\$150.00
December 30, 2009	\$150.00
March 30, 2010	\$150.00
June 30, 2010	\$150.00
September 30, 2010	\$150.00

The full amount of the forfeiture and costs may be paid at any time prior to each due date for payment.

Payment shall be made by ***certified check or money order***, payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor
Division of Enforcement
Post Office Box 8935
Madison, WI 53708-8935
Telephone 608-267-3817
FAX (608) 266-2264

5. **Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Section in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to submit timely any payment of the costs as ordered, or fails to comply with the conditions of his extended supervision, Respondent's license (#2377-08) SHALL BE SUSPENDED, without further notice or hearing until Respondent has complied with the terms of this Order.**
6. This Order is effective on the date of its signing

By: Ricky Van Goethem
A Member of the Section

3/5/09
Date

STATE OF WISCONSIN
BEFORE THE LAND SURVEYOR SECTION OF THE EXAMINING BOARD OF ARCHITECTS,
LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, DESIGNERS, AND LAND SURVEYORS

IN THE MATTER OF	:	
THE DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	
	:	STIPULATION
CURTIS J. CUMMER,	:	Case LS 09 _____ LSR
RESPONDENT.	:	

Division of Enforcement Case #08 LSR 004

It is hereby stipulated between Curtis J. Cummer, personally, and Claudia Berry Miran, for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement (case # 08 LSR 004). Respondent consents to resolution of this investigation by stipulation and without the issuance of a formal complaint.
2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including:
 - The right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence.
 - The right to confront and cross examine the witnesses against him.
 - The right to call witnesses on his behalf and to compel their attendance by subpoena.
 - The right to testify himself.
 - The right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision.
 - The right to petition for rehearing.
 - All other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code and any other provisions of state or federal law.
3. Respondent has been provided with an opportunity to obtain the advice of legal counsel prior to signing this Stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Land Surveyor Section (Section) of the Examining Board of Architects, Landscape Architects, Professional Engineers, Designers, and Land Surveyors.. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Section’s order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Section, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Section, the parties agree not to contend that the Section has been prejudiced or biased in any manner by consideration of this attempted resolution.
6. The parties to the Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Section ever assigned as an advisor in this investigation may appear before the Section in open or closed session without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Section may have in connection with the Section’s deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Section should accept the Stipulation and issue the attached Final Decision and Order.
7. Respondent is informed that should the Section adopt this Stipulation, the Section’s Final Decision and Order is a public record and will be published in accordance with standard Department procedures.

8. The Division of Enforcement joins Respondent in recommending the Section adopt this Stipulation and issue the attached Final Decision and Order

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Curtis J. Cummer	Date
Chippewa Valley CTF	
2909 East Park Avenue	
#437044	
Chippewa Falls, Wisconsin 54729	
License # 2377-08	

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Claudia Berry Miran, Attorney	Date
State Bar # 1015184	
Division of Enforcement	
Department of Regulation and Licensing	
1400 East Washington Avenue	
P. O. Box 8935	
Madison, WI 53708-8935	